

**CITY OF MILPITAS
Summary of Contents
Milpitas City Council Meeting
March 4, 2003
6:30 p.m. Closed Session
7:30 p.m. Public Business
455 E. Calaveras Boulevard**

I. ROLL CALL (6:30 p.m.)

II. ADJOURN TO CLOSED SESSION

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Government Code Section 54956.8)

Property: APN Nos. 86-05-021, 86-05-009, and 86-11-013

Negotiating Party: Tom Wilson

Under Negotiation: Terms and Conditions for Acquisition/Lease of Property

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:30 p.m.)

V. APPROVAL OF MINUTES: February 18, 2003

VI. SCHEDULE OF MEETINGS

VII. PRESENTATIONS (None)

VIII. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

IX. ANNOUNCEMENTS

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR (Items with Asterisks)

XII. PUBLIC HEARINGS (None)

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

RA2. ROLL CALL

RA3. APPROVAL OF MINUTES: February 18, 2003

RA4. APPROVAL OF AGENDA

RA5. Review Project Closeout Progress: Approve Contract Change Orders: Civic Center (Project No. 8026) (Staff Contact: Greg Armendariz, 586-3220)

RA6. Budget Cost Savings: FY 2002/2003 (Staff Contact: Emma Karlen, 586-3145, and Thomas Wilson, 586-3050)

RA7. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

- 1. Discussion and Action Related to Santa Clara Valley Water District Criteria for Trail Funding: Councilmember Gomez**

Community Advisory Commission

- 2. Community Advisory Commission Presentation on National Night Out (Staff Contact: James Lindsay, 586-3274)**

XV. UNFINISHED BUSINESS (NONE)

XVI. NEW BUSINESS

- *3. Approve Application For Transportation Fund For Clean Air (TFCA) Grant Funds For Coyote Creek Trail, Reach 1 (Project No. 4206) (Staff Contact: Carol Randisi, 586-2601)**
- *4. Approve Waiver of Field Rental Fees for the American Cancer Society's Relay for Life Event (Staff Contact: Bonnie Greiner, 586-3227)**

XVII. ORDINANCE

- 5. Introduce Ordinance No. 259 Adding Chapter 11 to Title X of the Milpitas Municipal Code Entitled "Regulation of News Rack" (Staff Contact: Mark Rogge, 586-3163)**

XVIII. RESOLUTIONS

- *6. Adopt Resolution Granting Initial Acceptance with Delayed Item Agreement: Montague Widening (Project No. 4180) (Staff Contact: Steve Erickson, 586-3317)**
- *7. Adopt Resolution Granting Final Acceptance: 1999 Slurry Seal (Project No. 4037H) (Staff Contact: Steve Erickson, 586-3317)**
- *8. Adopt Resolution Granting Final Acceptance: 1999 Street Resurfacing (Project No. 4182) (Staff Contact: Steve Erickson, 586-3317)**

XIX. BIDS AND CONTRACTS

- *9. Approve Consultant Agreement: H.T. Harvey & Associates - Calaveras Road Slope Repair, Site Mitigation and Monitoring Services (Project No. 4029) (Staff Contact: Steve Erickson, 586-3317)**
- *10. Approve Assignment and Amendment to a Contract for Annual HVAC Maintenance (Staff Contact: Lou Zenzen, 586-3161)**

***11. Award Bid for Air Purifying Respirator Adapters and Canisters (Staff Contact: Lou Zenzen, 586-3161)**

***12. Award Bid for Purchase of Ammunition (Staff Contact: Lou Zenzen, 586-3161)**

XX. CLAIMS AND DEMANDS

***13. Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Lou Zenzen, 586-3161)**

***14. Approve Payroll Register (Staff Contact: Emma Karlen, 586-3145)**

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MARCH 18, 2003
AT 7:30 P.M.**

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XII. PUBLIC HEARINGS (None)

XIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER BY THE MAYOR

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RA3. APPROVAL OF MINUTES: February 18, 2003

RA4. APPROVAL OF AGENDA

RA5. REVIEW PROJECT CLOSEOUT PROGRESS; APPROVE CONTRACT CHANGE ORDERS: CIVIC CENTER (PROJECT NO. 8026) (STAFF CONTACT: GREG ARMENDARIZ, 586-3220)

BACKGROUND: An additional seven contract change orders are recommended for approval at this time. These change orders are for HVAC equipment modifications to the garage exhaust system, a credit from a contractor due to savings on actual work performed, additional table for staff, and workstation furniture for the 3rd floor lobby/reception area improvements. A change order summary, describing the work, cost for each change order, and basis for credits, is included in the Council's agenda packet.

The fourth floor "shell," was added during the design phase of the City Hall project, for future expansion and occupancy. Redevelopment Agency (RDA) funds, used to build the City Hall, are restricted for the initial construction and improvements of the building. RDA funding would not be available, in the future, for completion of the fourth floor. Should it be necessary to later expand to the fourth floor, General Funds would need to be utilized. As an alternative, the City Hall Subcommittee directed staff to develop an option to complete the fourth floor, and present it to the Council for consideration, prior to the closure of the remaining contracts. Included in the Council packets, are three alternatives and cost estimates to complete the fourth floor. The cost estimates range from \$580,000 to \$780,000. Sufficient RDA funds are currently available for any of the alternatives presented. A staff presentation will be made at the Council meeting, to provide additional information.

RECOMMENDATION:

1. Approve contract change orders included in the contract change order summary sheet.
2. Consider the options to complete the Fourth Floor for occupancy.
3. Select an option for the Fourth Floor completion and direct staff to proceed with the development of a project schedule to execute the improvements selected.

RA6. BUDGET COST SAVINGS: FY 2002/2003 (STAFF CONTACT: EMMA KARLEN, 586-3145, AND THOMAS WILSON, 586-3050)

BACKGROUND: The adopted FY02-03 budget for the General Fund shows estimated revenues and operating transfers totaling \$55.65 million versus budgeted expenditures of \$61.8 million, thus projecting a shortfall of \$6.15 million. The shortfall was approved in the budget to be

funded by various reserves: \$1.3 million from the Capital Project Reserve, \$1.45 million from the PERS Rate Stabilization Reserve, and \$3.4 million from the unreserved, undesignated fund balance.

Upon review and analysis of the City's General Fund at mid-year, it was projected that several categories of revenues, primarily sales tax, TOT, and license & permit fees will not meet the original revenue projection due to lack of economic recovery. The additional shortfall is projected to be \$2.67 million. Further complicating the City's economic difficulties is the potential of the State not backfilling the vehicle license fees (VLF). This could amount to \$945,000 in the current fiscal year and \$2.4 million in FY03-04. The status of this revenue remains unclear with no action to date from the State Legislature.

The City manager has worked with all divisions and departments to reduce costs. At the end of January, staff estimates that the General Fund has achieved approximately \$2 million in cost savings, primarily in the services and supplies, and capital outlay budget categories. The departments and divisions are committed to save an additional \$1.5 million in the remaining fiscal year, which would bring total estimated cost savings through the entire fiscal year as follows:

FY 02-03 Projected Cost Savings	
July 02 through Jan 03	\$2,015,000
Feb 03 through Jun 03	1,466,000
Mid Year Adjustments Operating transfers	<u>517,000</u>
Total Cost Savings	<u>\$3,998,000</u>

It is projected that total savings of almost \$4 million will offset projected additional revenue shortfall and the potential of losing VLF for the remainder of this fiscal year. It also means that at the end of fiscal year 02-03, the City's General Fund would close with the following estimated reserve balances:

Capital Project Reserve	\$700,000
PERS Rate Stabilization Reserve	\$5,550,000
Unreserved, undesignated fund balance	<u>\$11,800,000</u>
Total	<u>\$18,050,000</u>

Cost Savings through Program reductions:

Several departments also suggest additional savings through program reductions. The programs include the following:

Planning & Neighborhood Services

Eliminate Spay/Neuter program (\$18,500), full year funding (\$40,000)

Total Cost Savings	<u>\$18,500</u>
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Recreation

1. Reduction of hours at the Teen Center: to be open 3:00-8:00 p.m. Monday through Friday. Saturday stays the same. (\$5,000)
2. Eliminate Teen Center Sunday Hours (\$5,000)
3. Sports Center: reduce one hour a day and close at 8:00 p.m. instead of 9:00 p.m., and open on Tuesday and Thursday at 8:00 a.m. instead of 6:00 a.m. (\$2,500)
4. Eliminate Kid Fit at Sports Center and re-use room to offer contract class for kids (\$6,000)
5. Close the Community Center one hour early at 6:30 p.m. (\$1,000)
6. Reduce spring 02-03 and 2004 Softball at Gill by two nights (\$6,100)
7. Eliminate Monday night Adult League Basketball (\$2,500)
8. Eliminate the remainder of this fiscal year Youth Sports Grants (\$5,000)

Total Cost Savings	<u>\$33,100</u>
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RECOMMENDATION: Note receipt and file.

RA7. AGENCY ADJOURNMENT

XIV. REPORTS OF OFFICERS AND BOARDS

City Council

1. DISCUSSION AND ACTION RELATED TO SANTA CLARA VALLEY WATER DISTRICT CRITERIA FOR TRAIL FUNDING: COUNCILMEMBER GOMEZ

BACKGROUND: The Santa Clara Valley Water District (SCVWD) is presently preparing criteria for funding creek trail improvements. Submittals are scheduled for May 2003, with the SCVWD Board of Directors review in July 2003. Currently, Milpitas staff is developing plans and specifications for trails on both Berryessa Creek (Hillview Drive to Abel Street plus a footbridge at Town Center) and on Coyote Creek, north of Highway 237.

Councilman Gomez and staff suggest that a letter (draft is included in the Council's agenda packet) be sent to the SCVWD Board of Directors requesting consideration of funding for the two trail elements.

RECOMMENDATION: Authorize the Mayor to send letter to the Santa Clara Valley Water District.

Community Advisory Commission

2. COMMUNITY ADVISORY COMMISSION PRESENTATION ON NATIONAL NIGHT OUT (STAFF CONTACT: JAMES LINDSAY, 586-3274)

BACKGROUND: National Night Out is a yearly event that is sponsored throughout the country by the National Association of Town Watch to strengthen neighborhood unity and community relations with local public safety officials. As part of its Work Plan, the Community Advisory Commission would like to increase awareness of the National Night Out Program. CAC Chair Al Garcia and Commissioner Ray Maglalang will make a presentation on the National Night Out Program at the Council meeting and be available to answer questions.

RECOMMENDATION: Receive presentation; provide any direction as appropriate.

XV. UNFINISHED BUSINESS (NONE)

XVI. NEW BUSINESS

***3. APPROVE APPLICATION FOR TRANSPORTATION FUND FOR CLEAN AIR (TFCA) GRANT FUNDS FOR COYOTE CREEK TRAIL, REACH 1 (PROJECT NO. 4206) (STAFF CONTACT: CAROL RANDISI, 586-2601)**

BACKGROUND: Project No. 4206, Coyote Creek Trail, Reach 1 extends from Dixon Landing Road to the Milpitas-Alviso Bridge and is a portion of the San Francisco Bay Trail spine. The project includes the development of a paved trail with landscaping, access points and trail amenities. This project is funded in the 2001/2002 Capital Improvement Program. The design phase is currently in progress.

November 5, 2002, City Council approved Resolution No. 7235 authorizing submittal of a \$150,000 grant application to the State of California Resources Agency Environmental

Enhancement and Mitigation Program to fund trail enhancements for the Coyote Creek Trail. Last month, staff received word that the State Resources Agency grant program was cut due to the state's budget crisis, and that no grant awards would be made. Subsequently, staff determined that the City could apply to the Santa Clara County Transportation Authority for funding for the same trail enhancements. Neither a resolution nor matching funds were requirements of the grant. Staff submitted a TFCA grant application by the February 21, 2003 deadline for \$95,000.

RECOMMENDATION: Approve submittal of a grant application to the Santa Clara County Transportation Authority TFCA grant program for \$95,000 for the Coyote Creek Trail, Reach 1 (Project No. 4206).

***4. APPROVE WAIVER OF FIELD RENTAL FEES FOR THE AMERICAN CANCER SOCIETY'S RELAY FOR LIFE EVENT (STAFF CONTACT: BONNIE GREINER, 586-3227)**

BACKGROUND: The American Cancer Society's Relay for Life event has been held at the Milpitas Sports Center field for the past four years. The City of Milpitas hosted the event the first year it was held in June 1999 therefore associating no costs. Committees consisting of Milpitas residents hosted the event the following three years, with the Milpitas City Council approving the waiver of the Sports Center field rental fees.

This year's American Cancer Society's Relay for Life event is scheduled for Friday, June 20, 2003, and Saturday, June 21, 2003, at the Milpitas Sports Center football field and track area. This event consists of teams participating in an 18-hour walk/run in an effort to raise funds to help with cancer research, patient services, and education program. A committee of City residents is organizing the event. The Community Chairperson for this year's event is Lonnie Knight, who has asked for the fees associated with the use of the field to be waived as an in-kind donation from the City of Milpitas.

Fees associated with the Sports Center rental:

Deposit:	\$350
Field rental or non-profit: (\$30/hour with lights, \$20/hour without lights)	\$670
Custodial charge: \$75 per day (2 days)	\$150
Application fee:	\$15
Total:	\$1,185

RECOMMENDATION: Approve the Sports Center fee waiver request for the American Cancer Society's Relay for Life Event

XVII. ORDINANCE

5. INTRODUCE ORDINANCE NO. 259 ADDING CHAPTER 11 TO TITLE X OF THE MILPITAS MUNICIPAL CODE ENTITLED "REGULATION OF NEWS RACK" (STAFF CONTACT: MARK ROGGE, 586-3163)

BACKGROUND: The purpose of this ordinance is to impose certain standards and requirements on vendors seeking to place news racks on public property or within the public right-of-way.

Under this ordinance, all vendors must comply with its requirements as to clearance from crosswalks, driveways, bus benches, etc., proper maintenance of their news racks, and the use of blinder racks where the vendor seeks to distribute sexually-explicit materials.

In addition, this ordinance imposes specific requirements on those vendors seeking to place news racks on, or immediately adjacent to, public property. These new requirements include:

1. Vendor must apply for a separate news rack permit.
2. Vendor may only place news racks in City-approved locations on, or adjacent to, public facilities. City staff would maintain a list of City property that is subject to this ordinance and a list of approved locations for news racks for each facility.
3. Vendor may only install modular-style news racks that meet specific design criteria as set forth in the ordinance.

This ordinance also provides an amortization period for vendors to bring into compliance existing news racks and also includes abatement provisions. This ordinance would not apply to news racks located solely on private property.

RECOMMENDATION:

1. Waive reading beyond the title.
2. Introduce Ordinance No. 259 adding Chapter 11 to Title X of the Milpitas Municipal Code entitled "Regulation of News rack".

XVIII. RESOLUTIONS

***6. ADOPT RESOLUTION GRANTING INITIAL ACCEPTANCE WITH DELAYED ITEM AGREEMENT: MONTAGUE WIDENING (PROJECT NO. 4180) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: On May 21, 2002, Council awarded this project to DeSilva Gates Construction LP to add an additional east bound lane on Montague Expressway from Gladding Court to I-680. The work includes road widening and sidewalk construction, and an extension of the Berryessa Creek box culvert. The majority of this work has been completed, but the entire project is not yet ready for acceptance.

The contractor has requested acceptance of a culvert extension and retaining wall at this time, which staff considers reasonable and in accordance with past practice. The remainder of the project will be accepted when the work has been completed. The rest of the project is being secured by a Delayed Item Agreement. It is recommended that Council adopt a resolution for initial acceptance of the culvert extension and retaining wall. A secured delayed item agreement is also recommended for the remaining items of work to be completed and accepted.

RECOMMENDATION:

1. Adopt resolution granting initial acceptance of Montague Widening Project 4180 improvements, except for the delayed items, and reducing the faithful performance bond to \$608,695.00.
2. Approve Delayed Item Agreement and authorize the City Manager to execute the same, subject to approval as to form by the City Attorney.

***7. ADOPT RESOLUTION GRANTING FINAL ACCEPTANCE: 1999 SLURRY SEAL (PROJECT NO. 4037H) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: This project which was initially accepted on February 1, 2000, has passed the one year warranty period. A final inspection has been made and the public improvements which include slurry seal improvements are satisfactory. A final acceptance may be granted and the contractor's bond may be released.

RECOMMENDATION: Adopt resolution granting final acceptance and releasing the bond.

- *8. ADOPT RESOLUTION GRANTING FINAL ACCEPTANCE: 1999 STREET RESURFACING (PROJECT NO. 4182) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: This project which was initially accepted on February 1, 2000, has passed the one year warranty period. A final inspection has been made and the public improvements which include street resurfacing are satisfactory. A final acceptance may be granted and the contractor's bond may be released.

RECOMMENDATION: Adopt resolution granting final acceptance and releasing the bond.

XIX. BIDS AND CONTRACTS

- *9. APPROVE CONSULTANT AGREEMENT: H.T. HARVEY & ASSOCIATES - CALAVERAS ROAD SLOPE REPAIR, SITE MITIGATION AND MONITORING SERVICES (PROJECT NO. 4029) (STAFF CONTACT: STEVE ERICKSON, 586-3317)**

BACKGROUND: The project is included in the adopted Capital Improvement Program (CIP). The work involves repair of eroded sections of the slope resulting from last winter rain, and installing a drainage system. The project construction has been completed and initially accepted. The next phase of the project involves site mitigation and monitoring as specified in Regional Water Quality Control Board (RWQCB) permit. Staff recommends that City enter into an agreement with H.T. Harvey Associates to perform site mitigation and monitoring services for a fee not-to-exceed \$8,770.00. These costs are funded through a federal grant.

RECOMMENDATION: Approve the agreement for site mitigation and monitoring services with H.T. Harvey & Associates and authorize the City Manager to execute the agreement, subject to approval by the City Attorney as to form.

- *10. APPROVE ASSIGNMENT AND AMENDMENT TO A CONTRACT FOR ANNUAL HVAC MAINTENANCE (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: At the Council meeting of April 3, 2001, the Council awarded a contract for annual HVAC services to Modern Air Systems, Inc. The company had two areas of work, sheet metal fabrication and HVAC installation and maintenance. The two principals decided to dissolve this joint corporation and create their own individual companies and mutually agreed to spilt their clients according to their areas of expertise. The HVAC technicians have been doing commendable work on the City's systems and staff wishes to retain them under the new company name of Pacific Air Solutions, Corp. which requires a contract assignment and amendment. There will be no price changes to the contract.

RECOMMENDATION: Approve the contract assignment and amendment and authorize the City Manager to execute it, subject to approval as to form by the City Attorney.

- *11. AWARD BID FOR AIR PURIFYING RESPIRATOR ADAPTORS AND CANISTERS (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: Staff issued a Request for Quotation for 80 self contained breathing apparatus (SCBA) mask adapters and nuclear, chemical and biological rated canisters to the three California dealers of SCBA equipment. All three responded. These adapters will be retrofitted to existing firefighters' face masks to accept filter canisters that protect first responders from weapons of mass destruction. The following is the recap of bids received including tax and freight:

<u>Bidder</u>	<u>Amount</u>
L N Curtis & Sons	\$10,435.30
SCBA Safety Check	\$10,911.60
Bacou-Dalloz-Survivair	\$13,249.80

There are sufficient funds available in the Fire Department operating budget for anti-terrorist equipment purchases for the SCBA adapters and canisters.

RECOMMENDATION: Award the bid for the purchase of the SCBA adapters and canisters to the lowest bidder, L N Curtis & Sons in the amount of \$10,435.30.

***12. AWARD BID FOR PURCHASE OF AMMUNITION (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: Staff requested bids from five distributors and dealers for Federal and Winchester ammunition for the Police Department. Bidders were asked to bid on the specific items of both brands and were informed that the City reserved the right to split the bid between more than one bidder if it proved to be advantageous for the City. Three responded, one was able to bid on both brands but was the highest bidder on both brands. Staff is recommending that the bid be awarded to the lowest bidders of each brand of ammunition. The following is the recap of bids received by brand which includes freight and tax:

	Federal Ammunition	Winchester Ammunition
San Diego Police Equipment Co	\$22,806.11	\$0.00
Adamson Industries	\$0.00	\$19,236.03
J & G Sales, Ltd.	\$34,797.90	\$21,823.20

There are sufficient funds in the Police Department operating budget for these purchases.

RECOMMENDATION: Award the bid for the Federal ammunition to San Diego Police Equipment Co. in the amount of \$22,806.11 and for the Winchester ammunition to Adamson Industries in the amount of \$19,236.03.

XX. CLAIMS AND DEMANDS

***13. APPROVE PAYMENT REQUESTS: MISCELLANEOUS VENDORS / CONTRACTORS (STAFF CONTACT: LOU ZENZEN, 586-3161)**

BACKGROUND: In accordance with direction given by City Council at its August 15, 1995, meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

\$20,062.28 to Decision Systems for the purchase of hardware and software upgrades to increase line capacity from 4 to 12, annual maintenance and monthly updates to the Teleminder automated messaging and notification system for the EOC. This is a sole source purchase. Decision Systems of Los Altos is the manufacturer of the system and does not have any local distributors because of their proximity. (Funds are available from the Fire Department budget for this purchase.)

RECOMMENDATION: Approve the purchase requests.

***14. APPROVE PAYROLL REGISTER (STAFF CONTACT: EMMA KARLEN, 586-3145)**

BACKGROUND: The Payroll Register for the period ending February 8, 2003, in the amount of \$1,575,984.47 is submitted for approval.

RECOMMENDATION: Approve Payroll Register as submitted.